

CHAPTER 107
GAMBLING, PHONOGRAPH MACHINES, ETC.

TABLE

107-1	Gambling Places; Penalty
107-2	Gambling
107-3	Seizure of Gambling Instruments; Arrest
107-4	Resisting Officer When Seizing Instruments
107-5	Gambling Devices
107-6	Definitions
107-7	Penalty (General)
107-8	Statement of Principle
107-10	Selling of Pools or Betting
107-12	Inmates of Pool Rooms; Penalty
107-13	Phonograph Distributors, Premises, and Machines; Licenses and Permits

107-1. Gambling Places; Penalty. Every person who as lessee or otherwise shall keep a gambling place, or who shall procure or permit any person to frequent, or any person to go into any building, room, booth, yard, tent, garden, boat, raft, float, vessel or any other place within the city of Milwaukee to play for money, or any other valuable thing, at any game, or to bet upon any game, race, or play on any unknown or contingent event, or who shall set up, use, or keep for use, or permit to be used for gambling purposes within the limits of the city of Milwaukee any gaming table or gaming device, cards, dice, apparatus, machine or implements such as is usually used for the purpose of playing at any game for money or any other valuable thing shall, upon conviction thereof, be punished by a fine of not less than \$100 nor more than \$200 and the costs and disbursements of the prosecution, and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months. (*Am. Ord. 210, File #72-1193, Oct. 24, 1972.*)

107-2. Gambling. Whoever makes a bet, or enters, or remains in a gambling place with intent to make a bet or to play a gambling machine may be fined not more than \$200. (*Am. Ord. 209, File #72-1192, Oct. 24, 1972.*)

107-3. Seizure of Gambling Instruments; Arrest. It shall be lawful and the duty of any police officer of the city of Milwaukee with or without warrant, to seize and remove any device or implement of whatsoever name or nature the same may be, used or intended to be used for gambling purposes, whenever and wherever found, and to arrest, with or without warrant, any person violating any of the provisions of s. 107-1.

107-4. Resisting Officer When Seizing Instruments. It is hereby made the duty of every member of the police department to seize any table, wheel, instrument, device or thing kept for use, or used, for the purpose of gambling for money or other valuable thing, and all such tables, instruments, devices and things when so seized shall be destroyed. Any person obstructing or resisting any member of the police department in the performance of any act authorized in this section shall be punished by a fine of not less than \$25 nor more than \$50 for each offense, and the costs and disbursements of prosecution, and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months. (*Am. Ord. 309, File #49-1749-d, Oct. 24, 1949.*)

107-5. Gambling Devices. 1. PROHIBITED. No person shall possess, keep, own, operate, use or cause to be kept, operated or used in any room, tent, booth, shed, tavern, building, enclosure or upon any premises, or part thereof, or in any place within the city of Milwaukee any clock, joker, tape, slot machine, table or implement for any game of bagatelle or pigeon hole, commonly known as pin games, whiffleboards, digger machines, rotary merchandisers, or other device of any kind of nature whatsoever, upon, in, by or through which money is or may be staked or hazarded, or into which money is, or chips, checks, or tokens are or may be placed or paid upon chance, or upon the result of the action of such clock, joker, tape, slot machine, table or implement for any game of bagatelle or pigeon

107-6 Gambling, Phonograph Machines, Etc.

hole, commonly known as pin games, whiffleboards, digger machines, rotary merchandisers, or other device of any kind or nature whatsoever, money, chips, checks, credit prizes, merchandise, or other valuable thing is or may be staked, bet, hazarded, won or lost; and such devices are prohibited in the city of Milwaukee and are declared to be gambling devices.

2. UNLAWFUL TO USE. It shall be unlawful to use or permit the use of any device or thing whatever whereby any person shall or may be induced to believe that he will or may receive any money, merchandise, replay, thing or consideration whatever, or any token exchangeable for any money, merchandise, replay, thing, or consideration whatever, as the result in whole or part of any contest of skill between the person and the device or thing whatever so operated. (*Am. Ord. 21, File #48-3363, Apr. 25, 1949.*)

107-6. Definitions. 1. BET. The term "bet" when used in ss. 107-1 and 107-2 shall mean a bargain in which the parties agree that, dependent upon chance even though accompanied by some skill, one stands to win or lose something of value specified in the agreement. But a bet does not include:

a. Bona fide business transactions which are valid under the law of contracts including without limitation:

a-1. Contracts for the purchase or sale at a future date of securities or other commodities; and

a-2. Agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guarantee and life or health and accident insurance.

b. Offers of purses, prizes or premiums to the actual contestants of any bona fide contest for the determination of skill, speed, strength or endurance to the bona fide owners of animals or vehicles entered in such contest.

2. GAMBLING. The words "gambling" or "gaming" when used in ss. 107-1, 107-2, 107-3 and 107-4 shall also mean and include the use of all devices or things whatever whereby any person shall or may be induced to believe that he will or may receive any money, merchandise, replay, thing or

consideration whatever, or any token exchangeable for any money, merchandise, replay, thing or consideration whatever, as the result in whole or part of any contest of skill between the person and the device or thing whatever, so operated.

3. GAMBLING MACHINE. The term "gambling machine" when used in ss. 107-1 and 107-2 shall mean a contrivance which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine.

4. GAMBLING PLACE. The term "gambling place" when used in ss. 107-1 and 107-2 shall mean any building or tent, any vehicle, whether self-propelled or not, or any room within any of them, one of whose principal use is any of the following: making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling machines.

5. PIN GAMES, ETC. The terms "bagatelle," "pigeon hole," and "pin game" as used in s. 107-5 shall mean a game played with any number of balls or spheres upon a table or board having holes, pockets or cups into which such balls or spheres may drop or become lodged, and having arches, pins and springs, or any of them, to conduct, deflect or impede the direction or speed of the balls or spheres put in motion by the player. (*Am. Ord. 211, File #72-1194, Oct. 24, 1972.*)

107-7. Penalty (General). Any person violating any of the provisions in ss. 107-2, 107-3 and 107-4 shall, upon conviction thereof, be punished by a fine of not less than \$25 nor more than \$200, together with the costs and disbursements of prosecution, and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months, and each and every day on which any person shall operate, keep, own or have in his possession or under his control any such clock, joker, tape, slot machine, table or implement for any game of bagatelle or pigeon hole, commonly known as pin games, shuffleboards, whiffleboards, digger machines, rotary

merchandisers, or other device of any kind or nature whatever, in violation of the provisions of this section, shall be deemed a separate and distinct offense. (*Am. Ord. 310, File #49-1749-a, Oct. 24, 1949.*)

107-8. Statement of Principle. Sections 107-5 to 107-8 are for the immediate preservation of the public peace and safety and are hereby declared a matter of urgency, being occasioned by the fact that various persons are establishing so-called vending machines, pin games, digger games, slot machines, rotary merchandisers and other devices in the city of Milwaukee, which by offering chances or hazards have a tendency to demoralize the youth of the city of Milwaukee. The provisions of ss. 107-5 to 107-8 do not apply to amusement devices as hereinafter defined in s. 107-13. (*Am. Ord. 3, File #72-296, May 4, 1942.*)

107-10. Selling of Pools or Betting. 1. UNLAWFUL. It shall be unlawful for any person, company or corporation to engage in pool selling or bookmaking or to occupy any room, shed, tenement, tent or building, or any part thereof, or any place upon any public or private ground within the limits of the city of Milwaukee, with books, apparatus or paraphernalia for the purpose of recording or registering bets or wagers or of selling pools; or to record or register bets or wagers, or sell pools upon the result of any trial or contest of skill, speed or power of endurance of man or beast, or upon the result of any political nomination, appointment or election; or, being the owner or lessee or occupant of any room, tent, tenement, shed, booth or building, or any part thereof, to knowingly permit the same to be used or occupied for any of these purposes, or therein to keep, exhibit or employ any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or to become custodian or depository for gain, hire or reward of any money, property or thing of value staked, wagered or pledged; or to be wagered or pledged upon any such result, or to receive, register, record, forward or purport or pretend to forward to or for any race course any money, thing or consideration of value, bet or wager or money, thing for consideration offered for the purpose of being bet or wagered upon the speed or endurance of any man or

beast; or to occupy any place or building, or part thereof, with books, papers, apparatus or paraphernalia for the purpose of receiving or pretending to receive or for recording or registering, or for forwarding or pretending or attempting to forward in any manner whatever any money, thing or consideration of value, bet or wagered, or to be bet or wagered, for any other person, or to receive or offer to receive any money, thing or consideration of value, bet or to be bet at any race track, or to assist or abet in any manner in any of the acts or things forbidden in this section. (*Ord. 163, Dec. 7, 1896.*)

2. PENALTY. Any person, or the officer or agent of any company or corporation who shall violate any of the provisions of the preceding sub. 1 shall upon conviction thereof, be punished by a fine of not less than \$100 and not exceeding \$500 and the costs and disbursements of prosecution, and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months. (*Am. Ord. 311, File #49-1749-f, Oct. 24, 1949.*)

107-12. Inmates of Pool Rooms; Penalty. It shall be unlawful for any person to resort to or become an inmate of any room, shed, tent, or place upon any public or private grounds within the city of Milwaukee, within or upon which is carried on any of the acts or things mentioned in s. 107-10-1 hereof and declared unlawful thereby; and any person found guilty of violating any of the provisions of this section shall be punished by a fine of not more than \$50, and the costs and disbursements of prosecution and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months. (*Am. Ord. 312, File #49-1749-g, Oct. 24, 1949; see also Ord. 163 Dec. 7, 1896.*)

107-13. Phonograph Distributors, Premises, and Machines; Licenses and Permits. 1. DEFINITIONS. a. "Distributor" means a person who leases or rents, or places with others for use or operation, one or more coin-operated phonographs in the city of Milwaukee.

107-13-2 Gambling, Phonograph Machines, Etc.

b. "Machine permit tag" means the permit delivered to the machine owner by the city clerk upon payment of the required permit fee, showing the permit number and the expiration date of the permit.

c. "Person" means any individual, partnership, firm, association, corporation or other legal entity.

d. "Phonograph" means a coin-operated phonograph machine which is so constructed or installed that upon the insertion in the slot of the machine of a coin, token, or similar object it, in return, reproduces musical sounds. This definition includes devices operated as coin-in-slot boxes, wired into a central music source, from which music or sound emanates through such coin-in-slot boxes in low volume upon insertion of a coin in the slot.

e. "Premises" means the places where phonographs are kept for the use of the public.

2. LICENSE AND PERMITS (GENERAL). a. Required. No person shall, within the city of Milwaukee, place, install, or permit phonographs to be installed or placed for use by the public without first having obtained a license and permit as is provided in this section.

b. By Machine Owner or Distributor. No person owning or operating any premises shall place on such premises for use by the public any phonographs unless such phonographs shall be owned by such person owning or operating said premises, or are obtained from a distributor of phonographs who is duly licensed by the city of Milwaukee.

c. Agent Not Eligible. No person shall make application for a distributor's license or phonograph machine permit acting as agent for, or in the employ of another, or for the use and benefit of another person, except in those instances when the applicant is a corporation. In such case, the corporation must appoint an agent and invest in the agent by properly authorized and executed written delegation full authority and control of the premises described in the application of the corporation and of the conduct of all business therein, as the licensee itself could in any way have and exercise if it were a natural person resident in the state.

3. DISTRIBUTOR'S LICENSE. a. Required. A license shall be required for each distributor.

b. Application. The application for a distributor's license shall be in writing on a form furnished by the city clerk and shall state that such application for a license is not made for and on behalf of any other person and that the applicant is not acting as an agent for, or in the employ of another; said application shall contain such other information as is required by law pertaining to the past history and fitness of the applicant, and shall be subscribed and sworn to before any notary public or other person authorized by law to administer oaths, and shall be filed with the city clerk, and, at the time of the filing of such application, such applicant shall pay to the city treasurer the license fee. The provisions of this section shall not apply to a Wisconsin corporation or a foreign corporation licensed to do business in the state of Wisconsin, but such provisions shall apply, however, to all officers and directors of such corporation. The provisions of this section shall apply to partnerships.

c. Qualifications. c-1. Professional Character. A distributor's license may be denied to any applicant who is not of good professional character or who has been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of being a distributor. In this subdivision, "applicant" includes any individual or partner, and any officer, director or agent of any corporate applicant.

c-2. Residency. No distributor's license shall be granted to any person or partner not a resident of this state for at least one year prior to the date of the filing of the application. In the case of a corporate applicant, a one year county residency requirement shall apply to the agent, and all officers and directors of the corporation must be residents of this state for at least one year prior to the date of filing of the application.

d. Distributor's License Fees. See s. 81-92.5 for the required license fee for phonographs.

e. Transfer of License. No transfer from person to person of the distributor's license shall be permitted.

4. PREMISES PERMIT. a. Where Permit Required. A permit shall be required for each premises where phonograph machines are kept for public use.

b. Application. An applicant for a phonograph premises permit shall make such application under oath upon blanks furnished by the city clerk and shall state the name of the owner or distributor.

c. Premises Permit Fees. See s. 81-92.5 for the required fee for a phonograph premises permit.

d. Transfer of Premises Permit. d-1. Premises permits may be transferred when there is a change of location by the permittee upon proper application and approval by the common council and the payment of a fee, as provided for in s. 81-92.5, for each permit transferred.

d-2. In the event of a death of the permittee, a premises permit may be transferred to the personal representative or next of kin. In the case of a legal separation or divorce of the permittee and his or her spouse by court order, and pursuant to such court order, a premises permit may be transferred to the spouse from whom the permittee is separated or divorced. In any such case, the personal representative, next of kin or spouse respectively may continue to operate under the existing permit for a period not to exceed 60 days, during which time period the proper transfer application may be filed. Each such permit transfer shall be made upon:

d-2-a. Proper application of the appropriate person and approval by the common council, and

d-2-b. Payment of a fee for each such permit transferred as provided in s. 81-92.5.

5. MACHINE PERMIT (TAG). a. Required. A permit shall be required for each phonograph. All machine permits (tags) shall be issued by the city clerk upon application and payment of respective fee.

b. Application. An applicant for a machine permit for a phonograph shall make such application under oath upon blanks furnished by the city clerk.

c. Posting of Machine Permit (Tag) Required. The permit or tag shall be securely fastened to the machine so licensed so that it may be easily seen by police officers.

d. Fees for Machine Permit or Tag. See s. 81-92.5 for the required machine permit fees.

e. Replacement of Tags. If a phonograph machine permit tag required by par. a is lost or stolen, the owner shall obtain a replacement tag from the city clerk.

6. ISSUANCE; TERMS. a. Approval of Licenses. All new distributor's licenses shall be issued by the city clerk after having been referred to the proper licensing committee and approved by the common council. Renewal applications may be issued by the city clerk without referral to the committee.

b. Term; Expiration Date. See s. 81-92.5 for the license and permit date of expiration.

7. DAMAGE TO MACHINES PROHIBITED. No person shall wilfully or maliciously remove, destroy, tamper, injure, mutilate or alter any phonograph, or any permit attached thereto, or insert any slug, token or counterfeit coin in any phonograph.

8. REVOCATION. a. Causes. Any license or permit under the provisions of s. 107-13 may be revoked for cause by the common council after notice to the licensee and a hearing. Licenses and permits may be revoked for the following causes:

a-1. The making of any material false statement in any application.

a-2. The conviction of the licensee, his agent or employee of any offense under the ordinances of the city of Milwaukee, or the statutes of the state of Wisconsin, the circumstances of which are substantially related to the licensed activity.

a-3. The licensed premise is being operated in a manner which has a substantial adverse impact upon the health, safety or welfare of the immediate neighborhood.

a-4. For any reasonable cause which is in the best interests and good order of the city.

b. Renewal After Revocation. No person whose license or permit for machine or for premises has been revoked can obtain another such license or permit for a period of one year from the date of revocation.

107-13-9 Gambling, Phonograph Machines, Etc. 107-1

c. Surrender of Licenses and Permits.

c-1. Upon revocation of any license or permit, the license or permit shall be immediately surrendered by the licensee to the police department, to be returned to the city clerk with a certificate notifying the city clerk in writing of the name and address of the licensee or permittee, the numbers of the licenses or permits, and the basis for the revocation.

c-2. No licensee shall refuse to surrender the license or permit upon request by the common council. Each day of refusal shall constitute a separate offense.

c-3. A reversal of a judgment or conviction upon appeal, and the filing of a certified copy of such judgment of appeal and reversal with the city clerk, by the chief of police or any interested party, shall operate as a reinstatement of the license or permit, and the city clerk shall thereupon return to the licensee the license or permit pursuant to this paragraph.

9. PENALTY. Any person who violates this section shall be fined not less than \$25 nor more than \$500 or, in default of payment thereof, be imprisoned in the county jail or house of correction of Milwaukee county not more than 90 days for each offense, and a separate offense shall be regarded as committed each day such violation continues.

(HISTORY: Section 107-13 am. Ord. 259, File #82-171, Mar. 29, 1983.

107-13-3-c rep. & rec. Ord. 76, File #83-479, July 12, 1983.)